IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO.157 OF 2004

Abdul Rauf Abdul Rahim Shaikh ...Applicant
Vs.
The State of Maharashtra & Anr. ...Respondents

Shri. A. Majeed Memon for the Applicant.
Shri. K.V. Saste, A.P.P. for the Respondent No.1-State.
Shri. Rajendra Shirodkar for the Respondent Nos.2 & 3.

CORAM : A. S. OKA, J.
DATE : SEPTEMBER 05, 2005.

P.C.:

1. The learned A.P.P. stated that the State has not decided to prefer any Appeal against acquittal.

2. Heard Advocate appearing for the Applicant. The learned Additional Sessions Judge has acquitted the accused Nos.2 and 3 of the offences punishable under section 498-A read with section 34, section 306 read with section 34 and section 304-B read with section 34 of the Indian Penal Code. The learned Counsel for the Applicant has taken me through the findings recorded by the learned Sessions Judge. He submitted that presumption under section 113-A of the Indian Evidence Act is squarely applicable. He submitted that though consumption of poison by the deceased may not have been strictly proved, the death of the deceased is unnatural death which has taken place within period of seven years from the date of marriage. He submitted that the impugned order is perverse.

3. I have considered the submissions. On the basis of the report of the Chemical Analyser and the oral dying declaration of the deceased, the learned Judge has recorded a finding that the prosecution has failed to prove the case that the deceased consumed poison and committed suicide. The learned Judge held that even it is assumed that deceased consumed poison under the pretext of drinking a tonic, it was an accidental death. On the basis of evidence on record, the learned Judge held that presumption under section 113-A of the Indian Evidence Act has been rebutted.

4. The perusal of the impugned judgment and order shows that the learned Judge has considered the entire oral and documentary evidence on record and after appreaciating the same, has recorded the findings. No manifest error of law or procedural irregularity is shown in the impugned judgment and order. In this Revision Application filed by the original complainant challenging an order of acquittal, evidence cannot be re-appreciated. There is no merit in the Application and the same is rejected.

JUDGE